
Rules of Department of Revenue

Division 10—Director of Revenue

Chapter 8—Inheritance and Estate Tax

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**Title 12—DEPARTMENT OF
REVENUE**

**Division 10—Director of Revenue
Chapter 8—Inheritance and Estate Tax**

12 CSR 10-8.010 Definitions

PURPOSE: This rule is intended as a general guideline in defining terms used in 12 CSR 10-8.010–12 CSR 10-8.150.

(1) The terms defined in section 145.010, RSMo (1969) will have the same meaning when used in these rules.

(2) The term director, unless otherwise specifically provided in this rule, shall mean the director of revenue or his/her duly authorized agent or designee.

(3) The term report shall mean the report of appraiser, inheritance tax short form assessment or estate tax appraisal, required by chapter 145, RSMo (1969).

(4) The term report of appraiser shall mean the form prescribed and furnished by the director for use by the appraiser when reporting the taxable assets of an estate, the deductions allowed by the probate court, exemptions allowed under section 145.090, RSMo and amount of tax assessment under section 145.150.3, RSMo (1969).

(5) The term inheritance tax short form assessment shall mean the form prescribed and furnished by the director used for reporting assessment of tax in small estates, consisting of personal property only, under section 145.150.5, RSMo (1969).

(6) The term estate tax appraisal shall mean the form prescribed and furnished by the director used for reporting estate tax under sections 145.070 and 145.080, RSMo (1969).

(7) The term consent to transfer or deliver assets shall mean the form prescribed and furnished by the director used to give ten (10)-day notice to the director of intention to transfer assets of an estate, as required under section 145.210, RSMo (Supp. 1975).

(8) The term conditional consent to transfer or deliver assets shall mean the form prescribed and furnished by the director used to give the director notice of intention to remove the contents of a safe deposit box, as required by section 145.210, RSMo (Supp. 1975).

(9) The family allowance is exempt from all claims. Under section 474.260, RSMo (1969), the surviving spouse is entitled to a reasonable allowance in money out of the estate for his/her maintenance during the period of one (1) year, after the death of the spouse. If there is no spouse, the allowance shall be made to the unmarried minor children. The allowance is in addition to the exempt property and homestead allowance.

(10) Exempt property in no case is liable for the payment of claims against the estate. Under section 474.250, RSMo (1969) the surviving spouse or unmarried minor children of a decedent are entitled absolutely to the following property of the estate without regard to its value: the family Bible and other books, all wearing apparel of the family, all household electrical appliances, all household musical and other amusement instruments, all household and kitchen furniture, appliances, utensils and implements. This property belongs to the surviving spouse, if any, otherwise to the unmarried minor children in equal shares.

(11) Under section 474.290, RSMo (1969), a homestead allowance is granted after the estate inventory required by section 473.233, RSMo (1969) is filed. The court, on application of the surviving spouse or of the guardian or person having custody of the persons of the unmarried minor children of a decedent, shall make an allowance to the surviving spouse or unmarried minor children of an amount not exceeding fifty percent (50%) of the value of the estate, exclusive of exempt property and family allowance, but in no case to exceed seven thousand five hundred dollars (\$7,500). If an unmarried minor child of the decedent receives a homestead allowance in excess of five thousand dollars (\$5,000), his/her exemption is the amount of the homestead allowance rather than five thousand dollars (\$5,000).

*AUTHORITY: sections 136.030 and 136.120, RSMo 1986. * Inheritance tax rule 61-010 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.020 Property Subject to Tax

PURPOSE: This rule shall serve as an interpretive guideline under section 145.020, RSMo (1969) in determining property subject to tax.

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) Omission of a particular asset from this rule does not exempt that property from inheritance tax.

(2) Real property located within this state is subject to inheritance tax under section 145.020, RSMo (1969) (Op. Atty. Gen., July 12, 1934).

(3) Tangible personal property is subject to tax only in the state in which it is located under section 145.020, RSMo (1969) (Op. Atty. Gen., July 12, 1934).

(4) Intangible personal property belonging to a resident decedent is subject to tax wherever situated. Intangible personal property includes stocks, bonds, notes, goodwill, accounts receivable, leasehold interests, claims, debts, partnership interests, patents and other choses in action whether held in trust or otherwise.

(5) The interest in partnership property is an intangible taxable in the state of the decedent's domicile even though part of the property is real estate located in another state (Op. Atty. Gen., March 22, 1937).

(6) Assets payable on death to a named beneficiary (that is United States Government Bonds, etc.), are subject to inheritance tax under the provisions of section 145.020, RSMo (1969).

(7) Insurance proceeds payable to decedent's estate are subject to inheritance tax.

(8) Proceeds of a single premium life insurance and annuity contract wherein the right to have the premium returned at any time is retained by the insured, are subject to inheritance tax.

(9) Proceeds of an annuity contract payable to a named beneficiary upon the death of the annuitant are subject to inheritance tax as a transfer made to take effect in possession or enjoyment at or after death of the transferor. This contract is taxable even where no funds were payable to decedent during his/her lifetime and when decedent could not obtain a refund of premiums, but did have the right to change the beneficiary at any time.

(10) The proceeds of a matured endowment policy left with the company as an investment are taxable (Op. Atty. Gen. No. 40, June 5, 1958, and No. 66, January 6, 1936).

(11) A gift is taxable if the gift has not been completed by delivery prior to death of decedent. Delivery is essential to complete a gift. The term “transfer to take effect in possession or enjoyment at or after death,” is defined as those transfers in which the transferor has retained for his/her life or any period not ending before his/her death, the possession or enjoyment of or the income from the property or the right to designate the persons who shall possess or enjoy the property or the income therefrom. Thus, if a person transfers property in trust for a child but reserves the right to the income for life, the transfer to the child does not become effective in enjoyment until the death of the donor. The law accordingly regards such a transfer as a testamentary disposition and the donor has parted with nothing but the legal title during his/her lifetime (Op. Atty. Gen., December 7, 1950).

(12) Bequests to cemeteries wherein provisions are made for the beautification and care of specific plot(s), for the benefit of an individual, are subject to inheritance tax (Op. Atty. Gen No. 57, January 6, 1955).

(13) Damages received under the wrongful death statutes are not subject to inheritance tax, as they are not received from the decedent in the form of a taxable transfer (Op. Atty. Gen., March 17, 1950).

*AUTHORITY: sections 136.030 and 136.120, RSMo 1969. * Inheritance tax rule 61-020 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.030 Federal Death Tax Credit

PURPOSE: This rule is intended as an interpretive guideline as to those matters considered by the Department of Revenue in determining the liability of the estate to pay Missouri estate tax regardless of whether or not the time has expired for the estate to claim the death tax credit refund from the federal government.

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) Missouri estate tax imposed by section 145.070, RSMo (1969) does not depend upon the actual acceptance of the death tax credit. The fact that the estate did not claim the death tax credit does not relieve the estate from the duty and liability to pay the

Missouri estate tax even though the time has expired for the estate to claim the death tax credit and claim a refund from the federal government.

*AUTHORITY: sections 136.030 and 136.120, RSMo 1969. * Inheritance tax rule 61-070 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.040 Homestead Allowance
(Rescinded October 30, 2002)

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-090 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002, effective Oct. 30, 2002.

12 CSR 10-8.050 Interest
(Rescinded October 30, 2002)

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-110 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002, effective Oct. 30, 2002.

12 CSR 10-8.060 Payment of Tax—Receipt—Refund
(Rescinded October 30, 2002)

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-140 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002, effective Oct. 30, 2002.

12 CSR 10-8.070 Probate Court to Determine Tax—Procedure
(Rescinded October 30, 2002)

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-150 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002, effective Oct. 30, 2002.

12 CSR 10-8.080 Appraisers Duties and Report of Appraisal
(Rescinded October 30, 2002)

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-160 was last filed on Dec. 31, 1975, effective Jan. 10,

1976. Rescinded: Filed April 1, 2002, effective Oct. 30, 2002.

12 CSR 10-8.090 Errors in Appraiser’s Reports—Exceptions to Appraiser’s Report
(Rescinded October 30, 2002)

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-170 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002, effective Oct. 30, 2002.

12 CSR 10-8.100 Report of Appraiser
(Rescinded October 30, 2002)

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-180 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002, effective Oct. 30, 2002.

12 CSR 10-8.110 Valuation of Life Estates and Remainder—Methods of Computation—Mortality Table
(Rescinded October 30, 2002)

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-200 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002, effective Oct. 30, 2002.

12 CSR 10-8.120 Notice of Intention to Transfer Assets

PURPOSE: This rule shall serve as a guideline relating to the transfer of certain estate property and the preparation of forms required under section 145.210, RSMo (Supp. 1975).

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) Conditional Consents to Transfer Assets. A conditional consent to transfer or deliver assets issued exclusively to transfer contents of safety deposit boxes and for no other purpose. The ten (10)-day notice required to be given the director of revenue and attorney general, by section 145.210, RSMo (Supp. 1975), (Senate Bill No. 410, 77th General Assembly, Second Regular Session, effective date, 8-13-74), is given by submitting a “conditional consent to transfer or deliver assets”, in duplicate, to the Director of Revenue, P.O. Box 27, Jefferson City, MO 65102. The form

must be complete and accurate when mailed to the director. If all information requested on the form is not given, consent will be refused. Complete instructions are furnished on the reverse side of the form. The consent of the director and attorney general is conditional. The condition is that within sixty (60) days after issuance of the waiver, a complete inventory must be furnished the director. Attached to and made a part of this inventory must be a certificate signed by an authorized representative of the bank, trust company or safety deposit box company and by the person(s) who actually received the contents of the safe deposit box. The inventory, certificate and receipt are not to be made or sent until after the conditional consent to transfer the contents is given by the director. The form of inventory, certificate and receipt shown on the reverse side of the form is not to be used; it is only a sample or guide to be used in preparing the certificate and receipt. If the reverse side of the form is used in place of a typewritten or printed certificate and receipt attached to and made a part of the inventory, the director's consent will be withheld and the forms returned to the sender.

(2) All Other Assets to be Transferred. A consent to transfer or deliver assets is to be used for the transfer and delivery of all assets—except the contents of safety deposit boxes, real estate and motor vehicles. All blanks on the form must be accurately filled in and all information requested must be given or the consent will be withheld and the form returned unsigned. Information must be complete showing the name(s) in which title is held, whether as tenants in common, decedent's name alone, trust corpus assets or payable on death assets, describing how title is held, date the account(s) was created, number assigned to document, when applicable, value at date of death and date of decedent's death. There must be a separate request for each company issuing stocks, bonds, etc., with the exception of a brokerage firm as holder of assets, then transfer of all holdings may be listed on one (1) form. The director may refuse at any time to give a consent to transfer any taxable assets unless the probate court either assesses the inheritance tax or issues a no tax order.

(3) Consent to transfer and deliver assets will be issued in the following cases:

(A) When the assets to be transferred have been inventoried as required by section 473.233, RSMo (1969);

(B) When the probate judge is aware of the existence of assets and issues a no tax order;

(C) When the assets were known and taken into account and the inheritance tax assessed;

(D) When the exemptions of the persons to whom the assets are to be transferred are greater than the assets sought to be transferred;

(E) When proceeds of a life insurance policy (not an annuity or supplementary policy) are payable to a named beneficiary;

(F) When the assets are transferred to the executor or to the administrator; or

(G) When the tax has been paid and the assets are listed on the report of appraiser.

(4) Consent to transfer and deliver assets will be withheld in the following cases:

(A) When the assets are not listed on the report of appraiser;

(B) When the assets to be transferred are more than the exemptions allowed to the beneficiary;

(C) When it appears evident that assets to be transferred have not been made known to the probate court; or

(D) When all information required on the consent form is not furnished.

*AUTHORITY: sections 136.030 and 136.120, RSMo 1969. * Inheritance tax rule 61-210 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.130 Exercise of Power of Appointment—Unlimited Power of Encroachment

(Rescinded October 30, 2002)

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-230 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002, effective Oct. 30, 2002.

12 CSR 10-8.140 Refund

(Rescinded October 30, 2002)

AUTHORITY: sections 136.030 and 136.120, RSMo 1986. Inheritance tax rule 61-250 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002, effective Oct. 30, 2002.

12 CSR 10-8.150 Mortality Table

(Rescinded October 30, 2002)

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Mortality table was last filed on

Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002, effective Oct. 30, 2002.

12 CSR 10-8.160 Estate Tax Interest Rate

PURPOSE: This rule establishes the manner of computing interest due on estate tax deficiencies.

(1) Interest shall be imposed on all estate tax deficiencies at the rate established pursuant to section 32.065, RSMo, except that—

(A) Where part of a deficiency results from a federal extension of time to pay, interest shall be imposed on that part of the deficiency at the adjusted rate established by Internal Revenue Code section 6621, which rate is subject to periodic change, as it is incorporated into Internal Revenue Code section 6601;

(B) Where all of the deficiency on the federal return resulting from extension of time to pay is eligible for the four percent (4%) interest rate set out in Internal Revenue Code section 6601, (estate consisting largely of interest in closely held corporation), the interest on all of the deficiency on the Missouri return resulting from the federal extension of time to pay shall be computed at the four percent (4%) rate; and

(C) Where part of the deficiency on the federal return resulting from extension of time to pay is eligible for the four percent (4%) interest rate set out in Internal Revenue Code section 6601 (estate consisting largely of interest in closely held corporation), and part must be computed pursuant to the adjusted rate established by Internal Revenue Code section 6621, those rates shall be applied to the deficiency on the Missouri return resulting from the federal extension of time to pay in the same ratio that the portion of the federal deficiency from Missouri sources which is subject to each rate bears to the total federal deficiency from Missouri sources resulting from extension of time to pay.

(2) The rates applicable to the federal extension shall only be applied for the period of the federal extension. The rate established pursuant to section 32.065, RSMo shall be used for all other periods.

(3) To claim the benefit of subsections (1)(A)–(C), the taxpayer must provide a copy of the federal billing notice and a statement for each year claimed, setting forth—

(A) The percentage of the federal deficiency attributable to the extension of time to pay;

(B) The percentage of the federal deficiency subject to each rate; and

(C) The percentage of subsections (3)(A) and (B) attributable to Missouri sources.

(4) Partial payments made on an estate tax deficiency shall be applied first to interest, then to penalty and then to tax. Payment shall be applied among the portions of the deficiency subject to the rates established by section 32.065, RSMo, Internal Revenue Code section 6601 and Internal Revenue Code section 6621 in such proportion as the principal portion of the federal deficiency from Missouri sources subject to each rate shall bear to the total principal amount of the federal deficiency from Missouri sources.

(5) When a taxpayer waives restrictions on collection of a deficiency pursuant to Internal Revenue Code section 6213(d) as it is incorporated into Internal Revenue Code section 6601(c), the department shall make notice and demand for payment within thirty (30) days after filing a copy of the waiver with the estate tax section of the Department of Revenue or interest shall not be imposed on the deficiency for the period beginning immediately after thirty (30) days and ending with the date of notice and demand.

(6) Where part of a deficiency is not subject to an extension, that amount shall be due on the original due date.

(7) The rates established by subsections (1)(A)–(C) shall be the rate for interest accrued after September 27, 1985.

AUTHORITY: sections 32.065, 145.551 and 145.961, RSMo 1986. Original rule filed Oct. 15, 1985, effective Jan. 26, 1986. Amended: Filed March 31, 1988, effective Sept. 29, 1988.*

**Original authority: 32.065 RSMo 1982, amended 1986, 1995; 145.551, RSMo 1980, amended 1985, 1986, 1987; and 145.961, RSMo 1980.*

12 CSR 10-8.170 Extension of Time to Pay Missouri Estate Tax

PURPOSE: This rule establishes the manner in which an extension of time to pay Missouri estate taxes is allowed pursuant to section 145.551.3., RSMo (1986) and for the acceleration of the unpaid tax for failure to make a required interest payment.

(1) When an estate has been granted an extension of time for paying its federal estate tax pursuant to 26 U.S.C. 6166, the filing of a

copy of the acceptance of the extension by the Internal Revenue Service with the director of revenue shall automatically extend the time for the payment of the Missouri estate tax required by sections 145.011–145.995, RSMo. The extension of time to pay Missouri estate tax pursuant to section 145.551.3., RSMo (1986) is equal to the period of time granted by the Internal Revenue Service pursuant to 25 U.S.C. 6166. For decedents dying prior to August 13, 1986 no extension of time to pay shall exceed four (4) years. The period of extension shall be measured from the date fixed for filing the Missouri estate tax return without regard to any extension of time for filing the return.

(2) If the estate has not received acceptance of its election to pay its federal estate tax pursuant to 26 U.S.C. 6166 by the Internal Revenue Service at the time of filing the Missouri estate tax return, it shall file, with the director of revenue, a copy of the application for extension it filed with the Internal Revenue Service. Upon receipt of the application, the estate will be granted a conditional extension of time to pay its Missouri estate tax pursuant to section 145.551.3., RSMo (1986) for a period of one (1) year. The one (1)-year period shall be measured from the date fixed for filing the Missouri estate tax return without regard to any extension of time for filing the return. The estate must provide proof of acceptance by the Internal Revenue Service of its application for extension of time to pay pursuant to 26 U.S.C. 6166 within the one (1)-year period.

(A) If the estate has not provided a copy of the acceptance by the Internal Revenue Service of its election under 26 U.S.C. 6166 within the one (1)-year extension granted in section (2) of this rule, the conditional extension of time to pay Missouri estate tax is void and the unpaid tax is delinquent as of the date originally fixed for filing the Missouri estate tax return and subject to additions for failure to pay pursuant to section 143.751.2., RSMo (1986). Interest shall be calculated at the statutory rate pursuant to section 32.065, RSMo (1986).

(B) If the estate provides a copy of the acceptance by the Internal Revenue Service of its election under 26 U.S.C. 6166 within the one (1)-year period the extension of time to pay Missouri estate tax shall be as provided in section (1) of this rule.

(3) Where the estate has been granted a valid extension of time to pay pursuant to section 145.551.3., RSMo (1986), interest on the unpaid tax shall accrue and become due annually on the unpaid tax at the same rate as

provided in 26 U.S.C. 6601 (see 12 CSR 10-8.160).

(A) The first annual interest payment shall be due one (1) year from the date originally fixed for filing the Missouri estate tax return without regard to any extension of time for filing the return. The remaining interest payments shall be due on the same date annually.

(B) Failure to timely pay an annual interest payment will result in an acceleration of the unpaid tax. Full payment of this accelerated tax is due upon notice and demand from the director of revenue or his/her delegate. Failure to pay the unpaid tax and interest upon demand will result in a delinquency and subject the estate to additions for failure to pay pursuant to section 143.751.2., RSMo (1986). After issuance of the ten (10)-day demand notice, interest shall be calculated at the statutory rate as provided in section 32.065, RSMo (1986).

AUTHORITY: section 145.961, RSMo 1986. Original rule filed Feb. 25, 1986, effective June 28, 1986. Amended: Filed March 31, 1988, effective Sept. 29, 1988.*

**Original authority: 145.961, RSMo 1980.*

12 CSR 10-8.180 Claims for Refund of Missouri Estate Taxes When Paid in Installments

PURPOSE: To inform the public of the procedures to be followed by an estate, which elected to pay the federal estate tax in installments pursuant to I.R.C. section 6166 and to claim refund of any overpaid Missouri estate taxes.

(1) A personal representative that elects to deduct interest paid on the unpaid portion of estate tax, which is deferred pursuant to an I.R.C. section 6166 election and section 145.551.3., RSMo on its federal estate tax return, shall file a supplemental Missouri estate tax return at the same time a supplemental United States estate tax return is filed.

(2) The supplemental Missouri estate tax return shall have the words “Supplemental Information” placed on top. The supplemental Missouri estate tax return shall have attached to it a complete copy of the supplemental United States estate tax return.

(3) The supplemental Missouri estate tax return is not and will not be considered a claim for refund.

(4) The personal representative, within ninety (90) days of the final determination of the federal state death tax credit, shall file an amended Missouri estate tax return.

**Original authority: 145.011, RSMo 1980; 145.041, RSMo 1980; and 145.961, RSMo 1980.*

(5) Claims for refund of Missouri estate taxes are not allowed until the federal state death tax credit is finally determined.

(6) If, after the federal state death tax credit is finally determined, the amount of Missouri estate tax paid exceeds the amount actually due, the personal representative shall file a claim for refund of the overpaid Missouri estate tax. The claim for refund must be filed within one (1) year of the filing of the amended Missouri estate tax return.

AUTHORITY: section 145.961, RSMo 1986. Original rule filed May 12, 1987, effective Aug. 27, 1987.*

**Original authority: 145.961, RSMo 1980.*

12 CSR 10-8.190 Missouri Estate Tax Base

PURPOSE: The purpose of this rule is to inform the public that the Missouri estate tax is equal to the amount of the state death tax credit allowed or allowable by IRC (Internal Revenue Code) Section 2011 attributable to property having a Missouri tax situs. This regulation is applicable to decedents dying on or after January 1, 1981.

(1) The Missouri estate tax is equal to the amount of state death tax credit as determined by IRC Section 2011 subject to apportionment as provided in section 145.041, RSMo (1986) for estates having property with a non-Missouri tax situs.

(2) The Missouri estate tax is not reduced or eliminated by the following credits allowed by the IRC for purposes of determining the federal estate tax:

(A) Credit for federal gift taxes on pre-1977 gifts (IRC Section 2012);

(B) Credit for foreign death taxes (IRC Section 2014);

(C) Credit for tax on prior transfers (IRC Section 2013).

(3) Failure to claim the state death tax credit for federal estate tax purposes does not eliminate or excuse the payment of the Missouri estate tax.

AUTHORITY: sections 145.011, 145.041 and 145.961, RSMo 1986. Original rule filed Aug. 23, 1988, effective Dec. 29, 1988.*